

Explanatory Memorandum to the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

29 October 2019

1. Description

1.1 These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 (S.I. 2019/1316) to correct an incorrect cross-reference, make minor amendments to the Welsh text, and effect equivalence between the English and Welsh texts. This instrument makes minor and technical changes to ensure the above legislation is operable in a UK-only context.

2 Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 The Constitutional and Legislative Affairs Committee (CLAC) produced a draft report on the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 (the 2019 Regulations) on 16 October 2019. Their report identified a number of technical points.

2.2 The Welsh Government provided a response to CLAC in respect of the draft report and agreed to make a number of corrections to the 2019 Regulations, to reflect the points identified by CLAC. This is done by way of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019.

2.3 The 21 day rule will be breached in respect of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019.

2.4 These Regulations are made under section 2(2) of the European Communities Act 1972, meaning there is some urgency in making them in advance of exit day, when the power will no longer be available. One of the amendments made by the 2019 Regulations relates to the Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/379 (W. 94)) (EU Exit Regulations 2019). The Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) (No.2) Regulations 2019 (EU Exit No. 2 Amendment Regulations 2019) are currently being drafted. The EU Exit No. 2 Amendment Regulations 2019 will also amend the EU Exit Regulations 2019 and it is anticipated that they will be laid on 28 October, with a coming of force date of (for some provisions) immediately before exit day, and (for other provisions) exit day. Given that these Regulations and the EU Exit No. 2 Amendment Regulations 2019 both amend the EU Exit Regulations 2019, for clarity – on both the statute book and for the ease of understanding for lay readers – it is considered appropriate that the amendments made by these Regulations come into force first. The 2019 Regulations come into force on 30 October, and these Regulations need to come into force before that date. The latest day on which they can come into force is 29 October. In order to achieve this it is necessary for the 21 day rule to be breached.

3 Legislative Background

- 3.1 These Regulations are made in exercise of the powers conferred on Welsh Ministers by section 2(2) of the European Communities Act 1972 and section 111(4) and (11) of the Environmental Protection Act 1990 (the 1990 Act).
- 3.2 The National Assembly for Wales was designated under the European Communities (Designation) (No. 4) Order 2003 (SI 2003/2901) in relation to measures relating to the control and regulation of the deliberate release, placing on the market and transboundary movement of genetically modified organisms. By virtue of paragraphs 28(1) and 30 of Schedule 11 to the Government of Wales Act 2006 (the 2006 Act), these functions were transferred to the Welsh Ministers.
- 3.3 The functions of the Secretary of State under the provisions of the 1990 Act were transferred to the National Assembly for Wales under Article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 these functions were then further transferred to the Welsh Ministers.
- 3.4 These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 to correct technical points identified by the Constitutional and Legislative Affairs Committee (CLAC) in the draft report dated 16 October 2019.

4 Purpose and intended effect of the legislation

- 4.1 These Regulations correct technical points identified by the Constitutional and Legislative Affairs Committee in a draft report dated 16 October 2019. No change is being made to the policy.
- 4.2 These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 to correct an incorrect cross-reference, make minor amendments to the Welsh text, and to effect equivalence between the English and Welsh texts.

5 Consultation

- 5.1 The Food Standards Agency (FSA) Wales was consulted in accordance with section 126(5) of the Environmental Protection Act 1990, regarding the technical changes made by the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019. In their response to the consultation, the FSA Wales recognised these Regulations do not represent a change in policy and are content for the amendments to be made.

6 Regulatory Impact Assessment

- 6.1 There is no significant impact on the public sector. An Impact Assessment has not been prepared for these Regulations because there is expected to be no additional impact on business. There is no change in policy and there is no

impact on the statutory duties or on the statutory partners as set out in the Government of Wales Act 2006.